

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested. Applicant has rewritten claim 1, 7, 17, 26, 37, 46, 48-50 and canceled claims 16 and 53. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks.

As to the objection to the disclosure statement, applicant notes that the serial number of the subject application was not known at the time this information disclosure statement was filed. Applicant now includes a disclosure statement with the subject application serial number listed along with column room for the examiner to consider each document. Incorporation of this disclosure statement is respectfully requested.

The objection to claims 1, 17, 26, 46 and 53 is now moot since the names have now been italicized.

Claims 1-25, 29-36 and 46-52 were rejected under sec. 112, second paragraph as being indefinite. Claims 1 and 7 have been appropriately amended. Claim 16 has been canceled. Claim 46 has been amended to clarify that the plant part is "ground up", which corresponds to the description on page 9 and pages 24+ in the specification. Removal of this rejection is respectfully requested.

Claim 53 was rejected under sec. 102b by Ho et al. This rejection is now moot since this claim has been canceled.

Claims 1-52 were rejected under the judicially created doctrine of obviousness type double patenting as being rejected over claims 1-50 of U.S. Patent 6,302,942 to the same assignee as that of the subject invention.

Applicant has filed a terminal disclaimer with the subject amendment response. Thus, removal of this rejection is respectfully requested.

Claims 1-52 were rejected under the judicially created doctrine of obviousness type double patenting as being rejected over claims 1-33 of U.S. Patent 6,280,500 to the same assignee as that of the subject invention.

Applicant has filed a terminal disclaimer with the subject amendment response. Thus, removal of this rejection is respectfully requested.

Claims 1-52 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-51 of copending Application No. 10/961,932 to the same assignee as that of the subject invention.

Applicant has filed a terminal disclaimer with the subject amendment response. Thus, removal of this rejection is respectfully requested.

Claims 1-52 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-46 of copending Application No. 10/756,237 to the same assignee as that of the subject invention.

Applicant has filed a terminal disclaimer with the subject amendment response. Thus, removal of this rejection is respectfully requested.

Applicant contends the references cannot be modified to incorporate the features of subject claims 1-15 and 17-52 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination.

In view of the foregoing considerations, it is respectfully urged that claims 1-15 and 17-52 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;



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Date 12/9/05